

## REMARKS/ARGUMENTS

**35 USC §102(b)**

The Office rejected **claims 1, 3-10, and 12-14** under 35 USC 102(b) as being anticipated by Sceopul (N) per teachings of Freudenberg (U). The applicant respectfully disagrees.

As amended herein, claim 1 and all claims dependent thereon expressly require a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. Such extract is not taught by the cited art. It is noted that the term 'whole extract' is a term well known in the art that refers to a solvent extract of an item that represents the totality of extractable compounds from that item using the solvent. Corresponding support is found throughout the application, and particularly in the examples. For at least this reason, the rejection should be overcome.

\*\*\*\*\*

The Office rejected **claims 1, 3-6, and 12-14** under 35 USC 102(b) as being anticipated by Nishibe (O) per teachings of Clifford (V). Once more, the applicant respectfully disagrees.

As amended herein, claim 1 and all claims dependent thereon expressly require a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. Such extract is not taught by the cited art. Regarding the term 'whole extract' the same observations as provided above apply. For at least this reason, the rejection should be overcome.

\*\*\*\*\*

The Office rejected **claims 1, 3-7, and 12-14** under 35 USC 102(b) as being anticipated by Pugliese et al. (A<sup>\*</sup>) per teachings of Suzuki (W) and Suzuki (X). Again, the applicant respectfully disagrees.

As amended herein, claim 1 and all claims dependent thereon expressly require a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. Such extract is not taught by the cited art. Regarding the term 'whole extract'

the same observations as provided above apply. For at least this reason, the rejection should be overcome.

\*\*\*\*\*

The Office rejected **claims 1, 3-6, and 12-14** under 35 USC 102(b) as being anticipated by Stuckler et al. (P) per teachings of Clifford (V). Yet again, the applicant respectfully disagrees.

As amended herein, claim 1 and all claims dependent thereon expressly require a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. Such extract is not taught by the cited art. Regarding the term 'whole extract' the same observations as provided above apply. For at least this reason, the rejection should be overcome.

\*\*\*\*\*

The Office rejected **claims 1, 3-9, and 11-14** under 35 USC 102(b) as being anticipated by Bourret et al. (Q) per teachings of Fisher et al. (U1) and Coleman (V1). Once again, the applicant respectfully disagrees.

As amended herein, claim 1 and all claims dependent thereon expressly require a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. Such extract is not taught by the cited art. Regarding the term 'whole extract' the same observations as provided above apply. For at least this reason, the rejection should be overcome.

### **35 USC §103**

The Office rejected **claims 15-18 and 20** as being obvious over Pugliese et al in view of Suzuki (W), Suzuki (X), and The Free Dictionary by Farlex (W1). The applicant once more respectfully disagrees for various reasons:

*(1) Not All Limitation Are Taught*

Claim 15 and all claims dependent thereon specifically require among other elements that the cosmetic formulation comprises a coffee cherry whole extract of primarily red or almost ripe dried coffee cherries with a specified mycotoxin content. These limitations are neither literally nor inherently present in the cited references. Therefore, and in further view of the amendments herein, the rejection is improper and should be withdrawn.

*(2) The Office's Reasoning For Combination Of Pugliese And Suzuki Is Factually Not Supported*

It is noted that Pugliese teaches use of isolated xanthine compounds and is entirely devoid of any teaching to use a whole coffee fruit whole extract in a manner as presently claimed. These defects are also not remedied by the teachings of Suzuki, which are merely concerned with the time course of distribution of certain xanthine compounds in the coffee plant. As already pointed out above, the claims require a whole extract from a whole coffee cherry, but not a specific component of the coffee cherry (here: xanthine). Consequently, and at least for these reasons, the rejection of claims 15-18 and 20 as being obvious over Pugliese et al. in view of Suzuki and "The Free Dictionary" should be withdrawn.